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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/544,094

10/12/2005

Bettina Balslev Sorensen

PATRADE

8613

James C Wray  
1493 Chain Bridge Road  
Suite 300  
McLean, VA 22101

7590

02/13/2008

EXAMINER

QUINN, RICHAE LEE

ART UNIT

PAPER NUMBER

3765

MAIL DATE

DELIVERY MODE

02/13/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/544,094	<b>Applicant(s)</b> SORENSEN, BETTINA BALSLEV	
	<b>Examiner</b> RICHALE L. QUINN	<b>Art Unit</b> 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 August 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Priority***

The certified copies of priority documents have been received in the National Stage Application from the international bureau (PCT Rule 17.2 (a)).

### ***Response to Amendment***

The preliminary amendment filed on 8/1/2005 has been considered. Claims 3, 6 - 8, and 11 – 13 were amended. Claims 1- 13 are currently pending.

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the form must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering

of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 – 4 and 6 – 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Browder, Jr. (US 6,276,175). The device of Browder, Jr. discloses a clothing article capable of being worn by a person having an ostomy hernia, the clothing article is made for exerting compression (Column 3, lines 35 – 40) and is intended to be disposed around the lower portion of the body, the clothing article is characterized by knitting a seamless tubular (column 2, lines 66 - 67) which is made with an anatomic fit in a predefined size and shape and establishing a firm, elastic (Column 3, lines 26- 28) structure. The device of Browder, Jr. is made on a body size circular knitting machine (Column 2, lines 25 -26) and is selectively fixed on the machine form having a

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predetermined size and shape as the item is being constructed and is sewn together forming a panty brief with a lower body area, groin area and leg openings (Figures 1 and 2) after the garment has been fixated on a form. The extension of the garment is performed with varying intensity (Column 2, lines 30 –34) for establishing varied extension or elasticity and firmness in the article giving varied compression when the clothing article is placed on the body. Elastic yarns are formed along designated courses such that the elastic tension is even through out the garments and therefore would make up approximately 50% of the garment (Column 2, lines 25-29). It is noted that the recitation "for producing compression of between 15 to 5 mmHg" is a functional recitation. The device of Browder, Jr. meets all the structural limitations claimed by applicant and is therefore interpreted to perform in the same manner as the claimed apparatus having a compression of between 15 – 5 mmHg and would have a material that displays a force/elongation curve including a largely flat curve pattern as recited by applicant.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Browder, Jr. in view of Sinigagliesi (US 2,736,036). The device of Browder, Jr. substantially

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discloses the claimed invention but is lacking a groin area having an aperture. The device of Sinigagliesi discloses a tubular knit garment having an aperture (13) in the groin area. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the device of Browder, Jr. by utilizing the aperture taught by Sinigagliesi in order to provide access to the genitals from the exterior surface of the garment (column 2, lines 55 – 68).

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. Binder (US 2,553,353), Parrott (US 3,174,482), Sloan (US 3,220,410), Safut (US 3,595,034), Atwater et al. (US 5,131,100), Boehm et al. (US 5,163,306), Browder, Jr. et al. (US 5,572,888), Perron et al. (US 5,787,732), Rabinowicz (US 6,192,717) and Slautterback et al. (US 6,622,719).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richale L. Haney Quinn whose telephone number is 571-272-8689. The examiner can normally be reached on M-F 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on 571-272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Richale L Haney Quinn  
Examiner  
Art Unit 3765

RLQ  
1/4/2008

\Katherine Moran\

Primary Examiner, AU 3765